

Testimony before House Judiciary Committee
House Bill 2106- Trespasser liability
Presented by Eric Stafford, Senior Director of Government Affairs



Wednesday, February 8, 2012

Mister Chairman and members of the committee:

We appreciate the opportunity to provide testimony in support of House Bill 2106. My name is Eric Stafford. I am the Senior Director of Government Affairs for the Kansas Chamber.

The Kansas Chamber is pleased to support House Bill 2106, which codifies the historical common law approach maintaining the law as it stands today when dealing with the liability of property owners to trespassers. As stated in our legislative agenda, the Kansas Chamber supports efforts to improve the legal climate in Kansas by reducing incentives for litigation.

The Restatement Third of Torts approved by the American Law Institute (ALI) advocates removal of traditional common law duty rules such that a property owner would now generally owe a duty of reasonable care to trespassers. The law of Kansas has always been that property owners are not liable for injuries to trespassers, except in a few very specific circumstances. The ALI's new Restatement, therefore, imposes a broad new duty upon land possessors, which is unsound and does not reflect the law of any state.

The reaction from the trial bar to this new Restatement is concerning. In a national magazine, the American Association of Justice called the Restatement a "powerful new tool for trial lawyers." Judges in Kansas and elsewhere often turn to ALI Restatements for guidance in their decisions and could turn to the new Restatement for direction. It is essential that this legislature take the necessary steps to protect land owners, residential and commercial, from being exposed to liabilities which have not existed in our state.

The passage of HB 2106 would secure through statute Kansas' position of not holding property owners responsible for injuries to trespassers, with exceptions as listed in HB 2106.

Thank you for the opportunity to speak in support of House Bill 2106.



The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.